

REMARKS

Claims 1, 4-16 and 30 are pending in the application. Claims 1, 10-13 and 15 are amended, and claims 3, 17-29 and 31-33 are canceled. Reconsideration of the rejection and allowance of the pending application in view of the following remarks are respectfully requested.

In the Office Action, the Examiner rejected claims 1 and 3-33 under 35 U.S.C. § 103(a) as being unpatentable over Yamazaki (U.S. Patent No. 4,067,027) in view of Land (U.S. Patent No. 3,622,242). Applicants respectfully traverse the rejection for at least the following reasons.

In the specification of the present application, Applicants disclose an embodiment of a binocular telescope with a photographing function. The binocular telescope includes, inter alia, a pair of observation optical systems with an adjustable interpupillary distance, a pair of reticle elements on which reticles are formed, and an interpupillary distance adjuster. When the location of the optical axes of the pair of observation optical systems are made to coincide with the interpupillary distance of the user by using the interpupillary distance adjuster so that reticle images of the pair of reticle elements are fused, the fused reticle images form a cross.

On August 3, 2005, Applicants' U.S. representative conducted an interview with the Examiner to discuss the present application. During the interview, Applicants' U.S. representative pointed out that Yamazaki's binocular telescope does not include a pair of reticle elements. The Examiner agreed with Applicants' representative on this point (as noted by Applicants in pages 14-16 of the Response filed by Applicants on August

P23759.A09

12, 2005).

In the Office Action of October 11, 2005, the Examiner appears to have reversed his position, as he has asserted that Yamazaki's objective lenses 11 correspond to Applicants' claimed reticle elements. See page 3 of the Office Action. Applicants respectfully disagree.

Applicants respectfully submit that Yamazaki's objective lenses 11 are not reticle elements, as Yamazaki does not disclose that the objective lenses 11 are provided with a pattern for alignment or calibration. Although Land discloses a binocular rangefinder having reticle means 30, Applicants respectfully submit that Land's reticle means 30 are not combinable with Yamazaki's binocular telescope. When the distance between Yamazaki's eyepieces 8 are adjusted to correspond to that of a user's eyes by pivotally turning rotary tubular members 1 and 2, the eyepieces 8 are vertically displaced with respect to central tubular element 3. See col. 2, lines 55-58 and Figure 1. Since Land's eyepieces 26 and 28 must remain vertically aligned with respect to the reticle means 30, Applicants respectfully submit that Land's reticle means 30 is not combinable with Yamazaki's binocular telescope. Thus, Applicants respectfully submit Yamazaki and Land do not suggest a binocular telescope which includes a pair of reticle elements provided in a pair of observation optical systems, as recited in Applicants' independent claims 1, 3 and 32. Moreover, the Examiner has not provided any proper motivation for utilizing the reticle means of Land in the binocular telescope of Yamazaki.

Applicants further submit that the reticle images of Land's reticle means 30 do

P23759.A09

not form a cross when fused, as recited in Applicants' claim 1. See, for example, Applicants' Figures 14A, 14B, 15A, 15B and 16A. Rather, Applicants submit that Land's reticle means 30 form arrow images. See Figures 3A and 3B.

For at least these reasons, Applicants respectfully submit that the 35 U.S.C. § 103(a) rejection of independent claim 1 is improper, and respectfully request withdrawal of the rejection.

Dependent claims 4-16 and 30 are also submitted to be in condition for allowance for at least the reasons set forth above with respect to independent claim 1.

Applicants have canceled claims 3, 17-29 and 31-33 merely to advance the present application to issue. Thus, cancellation of these claims should not be viewed as a concession by Applicants to the propriety of the rejection.

Based on the above, it is respectfully submitted that this application is now in condition for allowance, and a Notice of Allowance is respectfully requested.

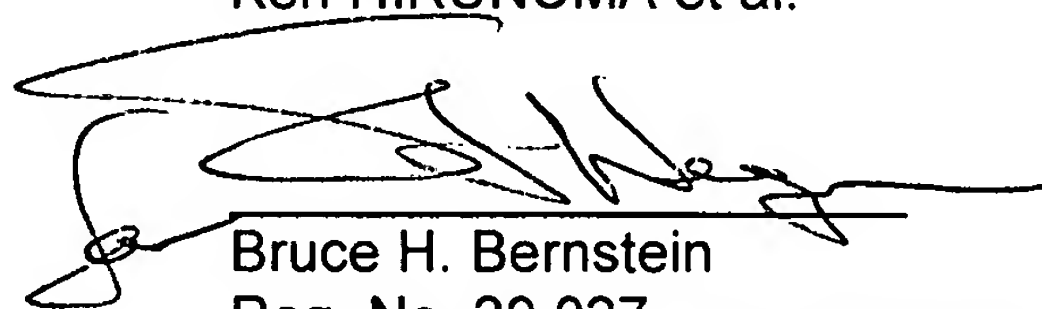
SUMMARY AND CONCLUSION

Entry and consideration of the present amendment, reconsideration of the outstanding Office Action, and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate. Applicants have made a sincere effort to place the present invention in condition for allowance and believe that they have now done so.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions or comments regarding this response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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